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E-FILED - 1/19/11

6 Attorneys for Defendants CITY OF SUNNYVALE,
 CHIEF DON JOHNSON, OFFICER STEVEN ROCHEVILLE,
 7 LIEUTENANT TRACY HERN and OFFICER SCOTT CORTESE

8 UNITED STATE DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10
 11 RUSSELL COLE and STEPHANIE OBERG,

Case No.: C08-05017 RMW

12 Plaintiffs,

13 vs.

**STIPULATION AND [] ORDER
 CONTINUING HEARING DATE FOR
 DEFENDANTS' MOTION FOR SUMMARY
 JUDGMENT**

14 SUNNYVALE, CHIEF DON JOHNSON,
 OFFICER STEVEN ROCHEVILLE,
 15 LIEUTENANT TRACY HERN, OFFICER
 SCOTT CORTESE, and CAPTAIN KELLY
 FITZGERALD,

16 Defendants.
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18 At the August 27, 2010 Case Management Conference, the Court set a hearing date for a
 19 Motion for Summary Judgment. The parties, acting by and through their respective legal counsel,
 20 herein stipulate for an Order continuing the hearing date for said motion presently set for Friday,
 21 March 11, 2011 to Friday April 29, 2011 at 9:00 a.m. in Courtroom 6, 4th Floor of the U.S. District
 22 Courthouse located at 280 S. 1st St., Rm. 2112, San Jose, California. Good cause exists to move the
 23 hearing date for the following reasons.

24 The parties have been cooperating on discovery and exchanged substantial documents
 25 including all police reports involving Welfare and Institutions Section 5150 incidents for a specified
 26 period of time. The parties submitted a Stipulation for a Protective Order to the Court but have not
 27 received back a signed Order. The parties have been notified that a new Magistrate Judge has been
 28 assigned to this case and will follow-up with the new Magistrate Judge on the status of the Protective

1 Order. Receipt of that Protective Order is necessary so that counsel for the defense may produce
2 certain privileged police personnel files to plaintiffs' counsel and said production must occur before
3 the defendant officers are deposed. Both plaintiffs have been deposed in December 2010. Counsel
4 for all parties have presently scheduled depositions of defendant police officers set for the latter part
5 of January. However counsel for the defense has been ordered to start a three week jury trial January
6 4, 2011 in Alameda County Superior Court before the Hon. Judge Hunter in Department 520
7 [Allstate v. City of Fremont, Consolidated Case No.: FG07359350]. This trial may require a
8 rescheduling of the depositions of the defendant officers until the first part of February. Counsel for
9 the defense was also involved in a jury trial from October 1 until November 3, 2010 in Alameda
10 County Superior Court, Department 607, Fremont, California (Dunn v. City of Fremont, Case No.
11 RG08415820). This trial also delayed discovery in the above captioned matter.

12 Parties will need sufficient time to obtain reported transcripts after the depositions. The
13 current deadline for e-filing of the Motion for Summary Judgment is February 4, 2011.

14 Counsel have met and conferred on a continued hearing date for the Motion for Summary
15 Judgment on Friday April 29th, 2011, and the Court has also indicated that this date is available for the
16 Honorable Ronald M. Whyte.

17
18 So Stipulated:

19
20 Dated: December 3, 2011

BERTRAND, FOX & ELLIOT

21
22 By: _____ /s/

23 Gregory M. Fox
24 Attorneys for Defendants City of Sunnyvale,
25 Chief Don Johnson, Officer Steven Rocheville,
26 Lieutenant Tracy Hern, Officer Scott Cortese, and
27 Captain Kelly Fitzgerald
28

1 Dated: Jan. 11 , 2011

KALLIS & ASSOCIATES P.C.

2
3 By: _____

4 Jeffrey Kallis
5 Attorneys for Plaintiffs
6 Russell Cole and Stephanie Oberg

7 Dated Jan. 11, 2011

BUSTAMANTE O'HARA & GAGLIASSO

8 By: _____ /s/

9 Andrew V. Stearns
10 Steven M. Berki
11 Attorneys for Plaintiffs
12 Russell Cole and Stephanie Oberg

13 ATTORNEY ATTESTATION

14 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
15 "conformed" signature (/s/) within this E-filed document.

16 Dated: January 11, 2011

17 _____ /s/
18 Gregory M. Fox

ORDER

The hearing date for defendants' Motion for Summary Judgment in the above entitled case shall be continued from March 11, 2011 to April 29, 2011.

IT IS SO ORDERED.

Dated: 1/19/11

Ronald M. Whyte

UNITED STATES DISTRICT COURT JUDGE

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